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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,291	08/20/2001	David L. Kinard	D-43502-01	5703

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EXAMINER

MADSEN, ROBERT A

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/933,291	Applicant(s) KINARD ET AL.	
	Examiner Robert Madsen	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims 4 9/18/03

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected. 9/18/03
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Indefinite Claim Language

1. Claims 19 and 20 recite the limitation "hydrophilic composition". There is insufficient antecedent basis for this limitation in the claim. For examination purposes, the hydrophilic composition is taken to mean the non-woven fiber of the lower web as recited in claims 2 and 3.
2. Claim 19 recites the phrase "such as". This renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
3. Claim 20 also recites the limitation "second web". There is insufficient antecedent basis for this limitation in the claim since the claims only recite an upper web and a lower web. For examination purposes, it is assumed that the second web is the lower web since the non-woven fiber having the hydrophilic composition forms the lower web as recited in claims 2 and 3.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5,8,9,13-17,21,22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pearlstein (US 5709897).

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6. See column 1, lines 5-13, column 5, and lines 44-62, and column 6, line 66 to Column 7, line 55. Note the in paperboard tray embodiment, the upper web, lower web, and absorbent layers may either be heat sealed together (Column 6, lines 35-53) or adhesively sealed (Column 7, lines 32-43). Also note, a non-evacuated packaging environment inherently comprises air, of which comprises 60-80% oxygen as recited in claims 4 and 5.

7. Claims 1-5, 8-10, 13-15, 17, 18, 21, 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kinard et al. (WO9204254)

8. See Abstract, Figures 1-4, Page 3, lines 10-25, Page 4, lines 15-34, Page 5, line 10 to Page 6, line 30. Note that a non-evacuated packaging environment inherently comprises air, of which comprises 60-80% oxygen as recited in claims 4 and 5.

9. Claims 1-5, 8-10, 13, 14, 17, 18, 21, 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kannankeril et al. (US 5176930).

10. See Figures 4 & 5, Column 2, line 62 to Column 3, line 31, Column 3, lines 47-66, and Column 4, lines 23-25 wherein 16b is taken to be a liquid permeable lower web comprising a fiber. Note that a non-evacuated packaging environment inherently comprises air, of which comprises 60-80% oxygen as recited in claims 4 and 5.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinard et al. (WO9204254) as applied to claims 1-5,8-10,13-15,17,18,21,22 above, further in view of Darnett (WO9730909).

13. Kinard et al. teach a lower non-woven fiber layer (i.e. wet strength paper), but are silent in teaching the fibers comprise polyolefin or polyester as recited in claims 11&12.

14. Darnett also teaches meat packages with absorbent pads wherein the lower non-woven fiber layer (Page 1, lines 8-12, Page 2, lines 25-36) and teaches there are many types of non-woven fiber materials used in the art, including polyester based fibers which provide small enough pores to prevent the absorbent from leaking out of the pad yet allow for liquid to be absorbed (Page 5, lines 2-20). Therefore, it would have been obvious to modify Kinard et al. and include a polyester based non-woven fiber layer since this type of web provides pores that are sufficiently large to absorb liquid yet sufficiently small to prevent leaking of the absorbent. One would have been substituting one conventional non-woven fiber-based web for another for the same purpose.

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15. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinard et al. (WO9204254) as applied to claims 1-5,8-10,13-15,17,18,21,22 above, further in view of LeKhac (US 4743244).

16. Kinard et al. teach a lower non-woven paper fiber web for absorbing liquids in a meat tray but are silent in teaching a specific hydrophilic composition at 0.1-10% as recited in claims 19 and 20.

17. LeKhac teaches enhancing the absorbing characteristics of paper based webs by adding block co-polymers of ethylene oxides , including poly (oxyethylene) as recited in claim 19, and teaches the hydrophilic composition may be used in combination with meat trays (Column 5, lines 45 –54,Column 6, lines 23-62). LeKhac further teaches the effects of various ingredients in the composition have an effect on the amount of liquid absorbed (Examples 2 and 6).

18. Therefore it would have been obvious to modify Kinard and include a hydrophilic composition of block co-polymers of ethylene oxides , including poly (oxyethylene) as recited in claim 19, since LeKhac teaches such compositions will improve absorbance of liquids in paper based webs and are suitable for meat trays, and one would have been substituting one liquid absorbing layer composition for another for the same purpose: to absorb liquids in a meat tray. To select any particular level of hydrophilic composition would have been an obvious result effective variable of the components in the composition since LeKhac shows the effects of various hydrophilic compositions on absorbance.

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19. Claims 1-10,14-17,21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Fujino et al. (US 5250310).

20. Sanfilippo et al. teach a meat product, an absorbent pad, a tray, and a lid member over the product and tray sealed under a low or no oxygen atmosphere as recited in claims 1, 4,6,7,21,22 that may be increased to the level of oxygen in air, as recited in claim 5, when a peelable layer is removed and the interior of the package reaches equilibrium with the outside atmosphere (Abstract, Column 3, lines 20-45,Column 5, line 38 to Column 6, line 25). Sanfilippo et al. is silent in teaching a particular structure of the soaker pad as recited in claims 1-3,8-10,14-17, and 21.

21. Fujino et al. teach an evacuated meat package wherein a meat is placed on a absorbent pad the two are covered with a flexible film lid member, and the package is evacuated. Fujino et al. further teach a suitable pad structure that is an improvement over the prior art in that it will provide a means of absorbing and retaining the liquid during storage (Abstract, Column 4, line 62 to Column 5, line 23). The absorbent pad comprises an upper flexible film water impermeable web made of polypropylene as recited in claim 1,8-10, and 21 (item 18), a lower liquid permeable non-woven fiber web with a hydrophilic composition (item 17) as recited in claims 1-3 and 21, and an absorbent layer(item 16), which may include powdered super absorbents as recited in claims 14 and 15, that is heat or adhesively sealed between the two webs as recited in claims 1,21,16,17 (Abstract, Column 2, lines 3-20,Column 3, lines 20-31, Column 3, line 61 to column 4, line 37).

22. Therefore, it would have been obvious to modify Sanfilippo et al. and use a absorbent pad comprising an upper flexible film water impermeable web made of polypropylene as recited in claim 1,8-10, and 21, a lower liquid permeable non-woven fiber web with a hydrophilic composition as recited in claims 1-3 and 21, and an absorbent layer, which may include powdered super absorbents as recited in claims 14 and 15, that is heat or adhesively sealed between the two webs as recited in claims 1,16,17, and 21 since Fujino et al. teach the pad in combination with vacuum packaging a meat under a flexible lid film will provide improved liquid retention during storage and one would have been substituting one type of liquid absorbent pad for another for the same purpose: vacuum packaging meat.

23. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Fujino et al. (US 5250310).

24. Sanfilippo et al. teach placing both a product and an absorbent pad on a tray, placing a lid member over the product and tray, and evacuating the atmosphere from the product and support member as recited in claim 23, wherein a combination of both vacuum and modified atmosphere may be alternatively supplied, which would include supplying a modified atmosphere after evacuation before sealing as recited in claim 24 (Abstract, Column 3, lines 20-45, Column 5, line 38 to Column 6, line 25). Sanfilippo et al. is silent in teaching the particular structure of the absorbent pad.

25. Fujino et al. teach an evacuated meat package wherein a meat is placed on a absorbent pad the two are covered with a flexible film lid member, and the package is

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evacuated. Fujino et al. further teach a suitable absorbent pad structure that is an improvement over the prior art in that it will provide a means of absorbing and retaining the liquid during storage (Abstract, Column 4, line 62 to Column 5, line 23). The absorbent pad comprises an upper flexible film web (item 18), a lower liquid permeable non-woven fiber web with a hydrophilic composition (item 17), and an absorbent layer (item 16) between the two webs. (Abstract, Column 2, lines 3-20, Column 3, lines 20-31, Column 3, line 61 to column 4, line 37).

26. Therefore, it would have been obvious to modify Sanfilippo et al. and use a absorbent pad comprising an upper flexible film web, a lower liquid permeable non-woven fiber web with a hydrophilic composition and an absorbent layer between the two webs, since Fujino et al. teach the pad in combination with vacuum packaging a meat under a flexible lid film will provide improved liquid retention during storage and one would have been substituting one type of liquid absorbent pad for another for the same purpose: vacuum packaging meat.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Isohata (US 5804241), Kageyama et al. (US 6015582), Lemaire (US 6579595 B2), Forbes et al. (US 6491993 B1) teach the recited absorbent pad structure for meat packages. Matthews (US 6447826 B1) teaches the combination of modified atmosphere packaging with absorbent pads.


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28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

30. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen
Examiner
Art Unit 1761


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